

December 13, 2002

DOCKET NO.
02-01202

ORDER APPROVING TRANSFER OF AUTHORITY

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) provides as follows:

(a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the Authority shall consider an application for transfer of authority, in pertinent part, as follows:

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

The Application

In the *Application*, which was filed on November 5, 2002, XO Tennessee requests Authority approval of a transfer of control of XO Tennessee from its parent, XO Communications, Inc., Debtor-in-Possession ("XO"), to a newly reorganized XO Communications, Inc. ("Reorganized XO"), a majority of whose stock will be owned by High River Limited Partnership ("High River").

The *Application* states that XO Tennessee is a wholly owned subsidiary of XO Communications, Inc., a Delaware corporation. Both XO Tennessee and XO Communications, Inc. are headquartered in Reston, Virginia. Through its operating subsidiaries, XO Communications, Inc. provides bundled local and long distance as well as dedicated voice and data telecommunications services, primarily to business customers. XO Communications, Inc.'s Tennessee operating subsidiary, XO Tennessee, was granted authority under the name of Signal Communications of Tennessee, L.L.C. to provide local exchange telecommunications services in Tennessee by Order dated September 29, 1995 in Tennessee Public Service Commission Docket No. 95-02502.

According to the *Application*, control of XO and XO Tennessee will be transferred in accordance with a proposed plan of reorganization for XO's emergence from its current bankruptcy proceeding. The proposed plan entails the elimination of unsecured debt and existing equity and the issuance of new equity of XO. The proposed plan will result in a majority of the stock of Reorganized XO being held by High River, a Delaware limited partnership located in New York, New York, which is ultimately owned and controlled by Carl C. Icahn and is engaged in the business of buying, selling, investing, and holding securities and debt obligations.

The *Application* states that Reorganized XO will continue to possess the managerial, technical, and financial qualifications to provide, through its subsidiaries, telecommunications services in Tennessee. High River plans to retain XO's current management team and will rely on the experienced group of managers, technicians, and other professionals who now operate XO's networks and provide service to the public. According to the *Application*, XO will benefit from a major reduction in its current debt as a result of the proposed transfer.

Public Interest Considerations

According to the *Application*, approval of the transfer of control of XO Tennessee to Reorganized XO pursuant to the proposed plan is in the public interest because it will enable XO to emerge from bankruptcy with a strengthened balance sheet that allows for better access to the capital markets. The proposed plan will accomplish this goal by significantly reducing XO's indebtedness. The *Application* states that the proposed plan does not involve a change in carriers providing service to customers or any change in the rates, terms, or conditions of service.

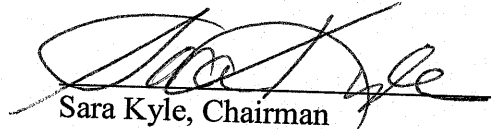
Findings

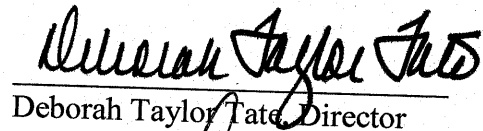
The Authority considered this matter at the November 18, 2002 Authority Conference. Based upon careful consideration of the *Application* and of the entire record of this matter, the Authority finds and concludes as follows:

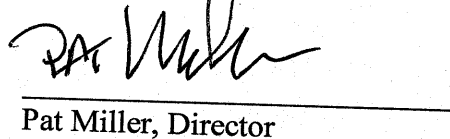
1. The Authority has jurisdiction over the subject matter of this *Application* pursuant to Tenn. Code Ann. § 65-4-113;
2. XO Tennessee, Inc. has been granted authority to provide telecommunications services in Tennessee;
3. Ownership and control of XO Tennessee, Inc.'s parent company, XO Communications, Inc., Debtor-in-Possession will be transferred to a newly reorganized XO Communications, Inc., resulting in a transfer of the authority to provide utility services that has been granted XO Tennessee, Inc.; and
4. The transfer of authority will benefit the consuming public.

IT IS THEREFORE ORDERED THAT:

The *Application* of XO Tennessee, Inc. for approval of the transfer of authority described herein is approved.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director